

MONTANA LEGISLATIVE HISTORY

Chapter 322 19 71

Bill H 106 S _____

Original bill & history C

Library doesn't have 1971 bills -
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H. Committee on Bus. & Industry

S. Committee on Pub. Health, W & S

Hearing Date(s) _____ C

Hearing Date(s) _____ C

1/20 ✓ C

_____ C

_____ C

_____ C

_____ C

2/4 ✓ C

Date Out

1/27 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Here is your legislative history

BUSINESS AND INDUSTRY COMMITTEE

January 20, 1971

The forth meeting of the Business and Industry Committee was held Wednesday morning at 10:30 in Room 433-4 of the State Capitol Building with Chairman Worden presiding.

All members were present with the exception of Representatives Gerke and McGrath.

House Bill 129 was presented by Rep. Burnett. Proponents were Wesley W. Wertz, Montana Bankers Association, and Vern Miller of the State Board of Equalization. There were no opponents.

House Resolution No. 2 was presented by Rep. Brand. Proponents were R. H. Robinson, Montana Railroad Association, and Kenneth D. Clark representing United Transportation. There were no opponents.

House Bill 116 was presented by Rep. Joe Brand. Proponents were Darrel W. Dewald representing United Transportation Union; Carl J. Knutson representing Brotherhood of Maintenance Way Employees; James Baamer, Engineer for Burlington Norther RR; Eugene R. Burns, Brakeman-Conductor for Milwaukee Railroad; and Kenneth D. Clark representing United Transportation Union. Opponents were Ty Robinson representing Montana Railroad Association; Dan Peinovich representing Burlington Norther Inc.; and Dale F. Corneil representing Milwaukee Railroad.

House Bill 106 was presented by Rep. Scott. Proponents were David L. Jackson representing Montana Liquor Control Board; Gustav Raaum representing Big Sky of Montana; Elmer Schye and Kenneth E. Hickel representing Montana Inkeepers Association; Representative Dye; and Wayne Gibson representing Bozeman Chamber of Commerce. Opponents were Robert A. Durkee and Donald W. Larson representing Montana Tavern Association, and Bob Lennon representing Cascade County Liquor Dealers.

Chairman Worden then called for action on the following bills:

HB106...placed in a sub-committee consisting of Representatives Selstad, Eggebrecht and McGrath.

Whom do you represent? Myself a Tavern owner
in Madison County

Amend?.....[✓] Oppose?.....[✓] Support?.....

Please leave prepared statement with secretary.

As stated before the
Committee Madison County has an
over abundance of license
per population. This
indicates that to make
a living a tavern owner
must depend on the
tourist for his livelihood.
Under present bill
at least two other
resorts will also qualify
for licenses in same
County. These two are
the Hall & Hall development
& Yellowstone Land Company
developments.

I'd like to also
state that after taking
a poll of owners, at least
two would sell for under
\$30,000; One would like
to transfer to Big Sky in
the future; and the rest
would sell at an asking
price that appears quite
reasonable.

STATEMENT BY DONALD W. LARSON IN OPPOSITION TO HB 106 --HOUSE BUSINESS & INDUSTRY COMMITTEE, REP. H. O. WORDEN, CHAIRMAN--JANUARY 20, 1971.

I AM DONALD W. LARSON OF HELENA, A REGISTERED LOBBYIST FOR THE MONTANA TAVERN ASSOCIATION AND I APPEAR BEFORE THIS COMMITTEE IN OPPOSITION TO HB 106 AS IT IS PRESENTLY WRITTEN.

BASICALLY, THE TAVERN INDUSTRY OPPOSES ANY CHANGES IN THE PRESENT LAW THAT WOULD DEVELUATE OUR LICENSES, REMOVE ANY RESTRICTIONS ON THE QUOTA SYSTEM, OR ELIMINATE ANY OF THE CONTROLS THAT ARE NOW IN THE HANDS OF THE LEGISLATURE IN REGARD TO LIQUOR LICENSES. IN OUR OPINION THIS BILL, IF ENACTED, WOULD DO ALL OF THESE THINGS.

WE RECOGNIZE THAT IN ORDER FOR DEVELOPERS OF RESORT AREAS TO BECOME ESTABLISHED IN MONTANA, WE--AS OTHERS--MUST MAKE SOME CONCESSIONS AND IT IS IN THIS VEIN THAT WE SUBMITTED OUR AMENDMENTS TO HB 106.

PRIOR LEGISLATURES HAVE WRITTEN A LAW THAT CAREFUL SPECIFIES WHO IS ABLE TO GET A LICENSE AND HOW THEY ARE TO GET A LICENSE, AND WE FEEL IT MUST REMAIN IN OUR LAWS NOT LEFT UP TO THE DECISION OF A BOARD. IT SHOULD BE DONE BY YOU GENTLEMEN HERE.

MONTANA'S TAVERN INDUSTRY HAS BEEN CONSTANTLY UPGRADED OVER THE PAST YEARS BECAUSE OUR LICENSES HAVE BEEN CONTROLLED AND THERE HAS BEEN A VALUE PUT UPON THEM. IT IS FOR THIS REASON WE HAVE PROPOSED AN AMEND

TO THIS BILL THAT THE PROMOTER OR DEVELOPER OF A RESORT ALSO BE THE OWNER OF THE LIQUOR LICENSE. THIS WOULD PLACE THE LICENSE IN THE HANDS OF THOSE WHO WOULD BE MOST RESPONSIBLE AND WOULD AVOID THE POSSIBILITY OF BRINGING IN SUBSTANDARD OPERATORS WHO LACK THE PROPER DEGREE OF PERMANENCY THAT SHOULD BE REQUIRED OF ANYONE HOLDING A LICENSE.

THE RESORT LICENSE SHOULD BE JUST THAT--A LICENSE ISSUED FOR A RESORT AND A RESORT ALONE--SUBJECTED TO ALL THE REGULATIONS THAT THE LAW IMPOSES ON ALL OF THE LICENSEES AND DEFINED AS WE SUGGEST.

GENTLEMEN, WE ARE ATTEMPTING TO WRITE A LAW THAT WILL GOVERN ALL RESORTS IN THE STATE OF MONTANA, AND IN SO DOING, IT SHOULD BE RESTRICTIVE ENOUGH TO MAKE ANYONE RECEIVING A LICENSE OR OPERATING UNDER ONE COGNIZANT OF THE PRIVILEGE AND OBLIGATION THEY HAVE.

THANK YOU FOR ALLOWING US TO APPEAR.

**STATEMENT BY ROBERT A. DURKEE IN OPPOSITION TO HB 106--HOUSE BUSINESS AND
INDUSTRY COMMITTEE, REP. H. O. WORDEN, CHAIRMAN--JANUARY 20, 1971.**

Gentlemen, I am Robert A. Durkee, registered lobbyist for the **Montana Tavern Association**, and I appear before this committee in opposition to HB 106 in its present form.

First, our organization would like to inform this committee that we are in full support of any recreational development in the state and we recognize the needed boost they could give to our economy.

Our principal objection to HB 106 is its loose language when it comes to defining a resort area. We feel very strongly that such definition should be spelled out by the legislature, similar to the language contained in the liquor control act defining the quota system, which covers several pages. Our fears are enlarged when we consider the effect of the governor's reorganizational program and its treatment of the liquor control board. Such board proposed would only meet periodically whenever a protest occurs on a license application or transfer. This, in effect, would give the administrator the broad power and sole responsibility of determining ~~what~~ what constitutes a resort area.

We have attempted to work out a solution, having met on several occasions with representatives of Big Sky of Montana, the Montana Chamber of Commerce, and Representative Scott, author of HB 106. We have circulated copies of our proposed amendments but apparently they were unacceptable. Our amendments for the most part are definitions of a resort area. Such items were tentatively approved by Mr. Huntley. I would refer you to a copy of the latest issue of Montana Beverage News which contains a question and answer exchange with Mr. Huntley in which he very openly suggested these ideas. I would also refer you to a letter from Mr. Huntley addressed to Mr. Don Larson of the Montana Tavern Association and the statement by Mr. Huntley that he could live with a master license satellite concept. We fail to understand why, suddenly, our amendments become unacceptable when they are practically in Mr. Huntley's own language.

50 We appeal to this committee to give serious consideration to our amendments, realizing that we are talking about the WHOLE state of Montana when we tamper with our liquor laws, and not just a selected area. In testimony given recently at the Senate hearing on Senate Resolution a witness told of some 31 proposed ski and recreational areas in various stages of development in Montana. HB 106 could very well enter into the program of several if not all of these developments.

We know the committee is aware of how jealously our industry guards the quota system, and for good reason. There has not been a session of the legislature in the past when an attempt was not made to weaken or destroy this system by proposed privileged treatment to special groups in their attempts to secure liquor licenses. We have been successful with the help of concerned legislators in halting these various attempts.

6 The disastrous effect of a weakened quota system on our industry is obvious. Many of our members, if not most of them, are operating their businesses with a tremendous investment in that license alone, brought about as a result of the quota system which in itself places a monetary value on a license. The courts have held that a liquor license is a personal business asset and as such is marketable. As a side issue, many of our banks in Montana hold mortgage on existing licenses and could be placed in an economic bind if the Montana quota system was suddenly abandoned.

8 We appeal to this committee to consider our amendments and to show their continued concern, as legislatures in the past have done, with the protection through a strong quota system of a productive and necessary Montana industry.

Whom do you represent?

Montana Inland Empire Association

Amend?..... Oppose?..... Support?.....

NAME

Kenneth Schell

Bill No. 106

Whom do you represent?

Montana Inland Empire Association

Amend?..... Oppose?..... Support?.....

NAME

Wayne Gibson

Bill No. HB106

Whom do you represent?

Bozeman Chamber of Commerce

Amend?..... Oppose?..... Support?.....

Please leave prepared statement with secretary.

1. Support any recreation development
2. TAP Inc. states several more developments will occur within the next 5 years
3. Recreational developments depend on this or similar changes to existing law

Proposed

HOUSE COMMITTEE ON BUSINESS AND INDUSTRY AMENDMENTS TO H.B. 106

Amend Section 1 by striking lines 23 to 25, page 4 of subparagraph (3) and inserting in lieu thereof the following language:

(3) Resort licenses. In addition to other licenses issued under the provisions of this act the board may issue a master resort license to the prime owner, corporate or individual, as approved by the board. Such license when issued shall carry a leasing privilege of a maximum of ten (10) satellite licenses. The master license and all satellite licenses shall be restricted to the platted area of the resort and operate under all rules and regulations of the board and statutes effective in the state.

The annual fee for a master resort license shall be Twenty-Five Hundred Dollars (\$2,500). Each resort master license satellite license fee shall be Two Hundred Fifty Dollars (\$250) annually.

Amend Section 1, subparagraph (3), on line 29 of page 4, following the word "provided," by adding the following language:

Such qualifications shall include but not be limited to the following: (a) a minimum capacity of four hundred (400) lodging accommodations per diem within the boundaries of the approved plat of the resort area; (b) a minimum of seven hundred fifty (750) capacity dining facilities for each meal within the resort area; (c) recreational facilities to accommodate a minimum of three thousand (3,000) persons per diem within the resort area; (d) deeded land owned by the corporation or individual approximating 2.5 acres per individual, the total acreage to be computed on the basis of the minimum of four hundred (400) lodging units.

BUSINESS AND INDUSTRY COMMITTEE

January 26, 1971

The seventh meeting of the Business and Industry Committee was held Tuesday afternoon at 4:00 in Room 431 of the State Capitol Building with Chairman Worden presiding.

All members were present with the exception of Representatives Cerke, McGrath, Olson and Selstad.

Chairman Worden called for action on the following bills:

HB21...Rep. Burnett made a motion that the amendment do pass; Patrick seconded; amendment carried. Rep. Laas moved that the bill DO PASS AS AMENDED. Rep. Burnett seconded the motion, and it was carried.

HB381...Rep. Patrick made a motion that the bill receive a DO PASS recommendation. Motion seconded by Eggebrecht and carried.

HB424...Rep. Nelstad moved the bill DO PASS. Rep. Burnett seconded and the motion was carried.

HB106...Rep. Selstad moved for the adoption of the amendment. Burnett seconded the motion, and it was carried. Rep. Patrick moved that HB106 DO PASS AS AMENDED. Rep. Nelstad seconded the motion and it was carried.

HB227...Rep. Patrick moved that HB227 DO PASS. Rep. Laas seconded the motion, and it was carried.

The meeting was adjourned at 4:45.



H. O. WORDEN, Chairman

February 4, 1971
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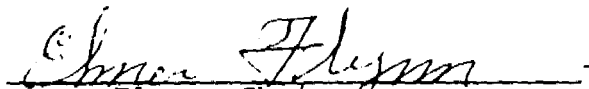
SB #270 and 271. Further action to be deferred until more information can be obtained.

SB #191. Motion by Hibbard, seconded by Cochrane, that SB #191 DO PASS AS AMENDED. Motion carried.

HB #106. Motion by Hibbard, seconded by Cochrane, that HB #106 DO PASS. Motion carried.

SB #342. No action at this time.

There being no further business, the meeting adjourned.


Flynn, Chairman

Authority to
operator weigh
stations—require
weighing.

Section 3. The state highway commission is empowered to establish, maintain, and operate, either intermittently or on a continuous schedule, weigh stations and be empowered to require all vehicles, except passenger cars, and pick-up trucks under eight thousand (8,000) pounds G.V.W. to enter for the purpose of weighing and inspection for compliance with all laws pertaining to the operation and safety requirements.

Employees badge.

Section 4. Employees of the state highway commission engaged in the enforcement of this act shall wear and prominently display an identification badge or device with the employee's name and title shown thereon. The state highway commission may in its discretion authorize uniform dress for state highway commission employees engaged in the enforcement of this act."

Uniform dress.

Approved March 15, 1971.

CHAPTER NO. 322

An Act Amending Section 4-403, R.C.M. 1947, to Provide for the Issuance of Resort Liquor Licenses by the Montana Liquor Control Board and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-403, R.C.M. 1947, is amended to read as follows:

License to
sell liquor.

"4-403. Issuance of retail liquor licenses—limit on number of licenses—retail wine licenses—lapse and cancellation. (1) Except as otherwise provided by law, a license to sell liquor at retail in accordance with the provisions of this act and the regulations of the Montana liquor control board, may be issued to any person who shall be approved by a majority of the board as a fit and proper person to sell liquor; provided, that the number of retail liquor licenses which the board may issue shall be determined as follows:

Limitations on
number of licenses
issued within five
mile limit.

(a) The number of retail liquor licenses that the board may issue for premises situated within incorporated cities and incorporated towns and within a distance of five

(5) miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Congress, to wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns, not more than two (2) retail liquor licenses; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over three thousand (3000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities and towns, three (3) retail liquor licenses for the first one thousand (1000) inhabitants and one (1) retail liquor license for each additional one thousand (1000) inhabitants; in incorporated cities of over three thousand (3000) inhabitants and within a distance of five (5) miles from the corporate limits thereof, five (5) retail liquor licenses for the first three thousand (3000) inhabitants and one (1) retail liquor license for each additional one thousand five hundred (1500) inhabitants. The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five (5) miles from the corporate limits thereof, shall govern the number of retail liquor licenses that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate limits thereof; provided, however, that where two (2) or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number of retail liquor licenses that may be issued for use in both of such municipalities and within a distance of five (5) miles from their respective corporate limits, shall be determined on the basis of the combined population of both of such municipalities and shall not exceed the foregoing limitations. The said distance of five (5) miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Retail liquor licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided that such limitations shall not prevent the issuance of a nontransferable and nonassignable (as to ownership only)

Basis of population.

Incorporated towns.

Incorporated cities
or towns.

Incorporated cities.

Number of
inhabitants
governs.

Combined
population.

Measurement of
five mile distance.

Present licenses
renewable.

Exemptions.

Ordinances
prohibiting sale.

retail liquor license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of licenses that the board may issue; provided that no retail license may be issued by the board for any premises situated within any zone of a city or town wherein the sale of liquor is prohibited by ordinance, a certified copy of which has been filed with the board. The board shall have discretion to deny the issuance of a retail license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

Proper policing.

Limitations on
number of licenses
issued outside five
mile limit.

(b) The number of retail liquor licenses that the board may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five (5) miles from the corporate limits thereof, shall be not more than one (1) license for each seven hundred fifty (750) population of the county, after excluding the population of incorporated cities and incorporated towns in such county.

Lapse of unused
licenses.

(2) From and after February 1, 1949, any retail license issued pursuant to this act not actually used in a going establishment for a period of ninety (90) days, shall automatically lapse. Upon determining the fact of nonuser for such period the board shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this subsection shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, park hotel, tourist facility or like business, provided such licensee has secured written authority from the board to close his licensed premises for a specified period of greater than ninety (90) days' duration, and providing further that should the liquor control board determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision set out above shall not apply.

Exemption—
seasonal operation.

Required authority
to close for more
than ninety days.

Resort retail
liquor licenses.

(3) *Resort licenses. It is the intent and purpose of this act to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to*

provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail liquor licenses may be issued by the board under the terms and as more particularly prescribed below. In addition to the licenses as otherwise set forth in this act, the board may issue resort retail liquor licenses in a resort area.

For the purposes of this section, a resort area is defined as a recreational facility meeting the qualifications determined by the board as hereinafter provided.

Resort area defined.

The board shall determine that the area for which licenses are to be issued is a resort area, such determination to be made under and pursuant to rules and regulations to be promulgated within one hundred eighty (180) days after the passage and approval of this act. In addition to the other requirements of this act, a resort area for the purposes of qualification for the issuance of resort retail liquor license must have a current actual valuation of resort or recreational facilities, including land and improvements thereon, of not less than five hundred thousand dollars (\$500,000), at least half of which valuation must be for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in the next paragraph. The word control shall mean lands held under lease, option, or permit. Before first adopting such rules and regulations in regard to resort liquor licenses, the board shall publish a notice of the hearing to be held on said rules and regulations in a regularly published newspaper in the cities of Billings, Bozeman, Butte, Great Falls, Helena, Miles City, Kalispell and Missoula, Montana, said publication to be published in said newspapers at least once a week for four consecutive weeks, the last of said publications being at least ten (10) but not more than thirty (30) days prior to the date set for said hearing, which shall be held in Helena, Montana, at a time and place designated by the board.

Determination by
board—rules and
regulations.

Required valuation
—not less than
\$500,000.

Sole ownership.

Control defined.

Publication of
notice of hearing.

The resort area must be determined by the resort developer or land owner by a plat setting forth the resort boundaries designating the ownership of the lands within the resort area which plat must be verified by the resort developer or land owner, and filed with the board prior to the filing of any applications by individuals for licenses

Resort area plat
must be filed.

Location—design. within the resort area. Such plat must show the location and general design of the buildings, and other improvements to be built in said area in which resort retail liquor licenses are to, or may, be located. A master plan for the development of the said area may be filed by the resort developer in satisfaction of this section.

Master plan may be filed.

Public hearing. Upon such filing the board shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or land owner is a resort area within the meaning of the rules and regulations of the board. At least thirty (30) days prior to the date of the hearing, the board shall publish notice thereof with a description of the location of the proposed resort area in a newspaper published in the county or counties in which the resort is located, once a week for four (4) consecutive weeks. Each resort developer or land owner shall, at the time of filing his application, pay to the board an amount sufficient to cover the costs of said publication. Persons may present statements to the board at the hearing in person or in writing in opposition or support of the plat. Within thirty (30) days of the hearing the board shall accept or reject the plat. If rejected the board must state its reasons and set forth the conditions, if any, under which the plat will be accepted and the decision of the board may be reviewed pursuant to the review procedure set forth in section 4-425 herein.

Publication of notice.

Costs.

Design within 30 days.

Review.

No boundary change after filing. Once filed with the board, the boundaries of a resort may not be changed without full hearing as above provided and the prior approval of the board, which approval shall be according to public convenience and necessity.

Applications for licenses. When the board has accepted a plat and a given resort area has been determined, applications may then be filed with the board by persons for the issuance of resort retail liquor licenses within the said resort area. Each applicant must submit plans showing the location, appearance and floor plan of the premises for which application for a license is made.

Letter of intent. If an applicant otherwise qualifies for a resort license but the premises to be licensed are still in construction, or are otherwise incomplete at the time of such application, the board shall issue a letter stating that the license will be

issued at such time as the qualifications for a licensed premises have been met, setting forth such time limitations and requirements as the board may establish.

In addition to the restrictions on sale or transfer of a license as provided in section 4-410 herein, no resort retail liquor license may be sold or transferred for operation at a location outside of the boundaries of the resort area.

Restrictions on sale or transfer.

The annual fee for resort retail liquor licenses within a given resort area shall be two thousand dollars (\$2,000) for each such license.

Annual fee—\$2,000.

A resort retail liquor license shall not be subject to the quota limitations set forth in section 4-403 (1) (a) above and a resort retail liquor license shall be issued by the board on the basis that the board has determined that such license is justified by public convenience and necessity, following a hearing as provided in section 4-407.1.

Exemption.

If any clause, sentence, paragraph, section, or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act."

Severability clause.

Section 2. This act shall be effective upon passage and approval.

Effective immediately.

Approved March 15, 1971.

CHAPTER NO. 323.

An Act to Define, Control and Prohibit the Littering of Public and Private Property, Providing a Penalty Therefor, and Repealing Sections 32-1629, 32-1629.1, 32-1630 and 32-1631, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the intention of the legislature by this act to provide for uniform prohibition throughout the state of any and all littering on public and private property, and to curb thereby the desecration of the beauty of the state and harm to health, welfare and safety of its citizens caused by individuals who litter.

Intention to provide uniform prohibition of littering.